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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 18th day of June, 1998

BEFORE

THE HON'BLE MR. JUSTICE V.P. MOHAN KUMAR

WRIT PETITION NO. 37259 OF 1993

BETWEEN :

Sri P.M. Ramaswamy,
aged about 61 years,
son of late Muniswamappa,
Residing at No. 220/14-15,
O.M.B.R. Lay Out, Muni -
swamappa Block, Chikka -
banaswadi, Bangalore - 40

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.. PETITIONER

(Sri K. Shivaji Rao, Advocate)

A N D :

1. The Special Deputy
Commissioner (Revenue),
Bangalore District,
Krishi Bhavan, Hudson Circle,
Bangalore
 2. The Assistant Commissioner,
Bangalore Sub-Division,
Bangalore
 3. The Tahsildar,
Bangalore South Taluk,
Bangalore
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4. Abbaiah alias Muniswamy,
son of late Ankanna, Since
deceased by LRs.

- a) Sri A. Ankanna, aged 40 yrs,
- b) Sri A. Krishna, aged 35 yrs,
- c) Sri A.M. Rajasekhar, aged 33 yeras

4(a) to 4(c) are sons of late Abbaiah
alias Muniswamy,

- d) Smt. Rukkanna,
aged about 65 years,
w/o late Abbaiah,

4(a) to 4(d) are residing at
Chikkabanaswadi, Banaswadi Post,
Bangalore - 560 043

.. RESPONDENTS

(Sri G. Papi Reddy for R - 4a - 4d

Sri C. Ramakrishna, H.C.G.P. for R - 1 to 3)

Writ Petition filed under Articles 226 & 227 of
the Constitution of India, praying to; issue a writ in
the nature of certiorari or order or direction quashing
the Annexure - 'E' passed by the Special Deputy Commi -
ssioner (Revenue), Bangalore District, Bangalore in
Mis. Appeal No. 13/88-89 dated 18-8-89 and Annexure - 'F'
passed by the learned members of the Karnataka Appellate
Tribunal in Revision Petition No. 186/89 dated 8-9-1993,
etc.

This Writ Petition coming on for Preliminary
hearing in "B" Group, this day, the Court made the
following :

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O R D E R

The petitioner challenges Annexures-E and F orders. The petitioner seems to have complained regarding the mutation effected with respect to his properties in Sy.No.160/4, 176/1, 176/7 and 212/2. The objections filed by the petitioner were rejected by Annexure-A order. He carried the matter in appeal before the Appellate Authority. The Appellate Authority set aside the order and remanded the matter to the Tahsildar to conduct an enquiry under Section 140 of the Karnataka Land Revenue Act and decide the dispute. Thereafter the dispute by the petitioner was upheld by Annexure-C order. That order was challenged before the Deputy Commissioner (Revenue), Bangalore, by the 4th respondent. By order dated 27-2-1989 that appeal was rejected. A further appeal was filed by the 4th respondent which was allowed by order dated 18-8-1989, as per Annexure-E. That order was challenged by the petitioner before the Tribunal which was dismissed by Annexure-F order.

2. The grievance of the petitioner is that the orders Annexures-E and F are illegal; that the powers exercised by the authorities are illegal and that there are no grounds to interfere with the same.

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3. I have heard Mr.K.Shivaji Rao, learned counsel for the petitioner. At the outset it may be stated that there is no power conferred under Section 140 of the Karnataka Land Revenue Act on the Tahsildar to enquire into the complaint made by the petitioner. The complaint made by the petitioner as can be seen from Annexure-B is:

"Sri.P.M.Ramaswamy represented challenge petition to this Office against the Order No.ADLR (SAS) PTN. 3/81-82 dated 29-10-1981 passed by the ADLR, Bangalore."

4. The complaint in essence is that the mutation effected in the name of respondent No.4 is an incorrect mutation and that the mutation must be corrected. That, of course, is totally beyond the scope of Section 140(2) of the Land Revenue Act. Section 140(2) of the Act reads as follows:

"If any dispute arises concerning the boundary of a holding which has not been surveyed or if at any time after completion of a survey, a dispute arises concerning the boundary or a survey number, a sub-division of a survey number or a holding, the Tahsildar shall decide the dispute having due regard to the land records

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if they afford satisfactory evidence of the boundary previously fixed, and if not, after such inquiry as he considers necessary."

5. The dispute now raised by the petitioner is in the nature of an entry made in the Mutation Register. Even if the Tahsildar exercises the power under Section 140(2) and conducts re-survey of the land to ascertain the mutation effected is correct or not, Section 140 does not confer power on the Tahsildar to issue an order in the nature of that he has already exercised. Merely because an authority directed the Tahsildar to exercise the power under Section 140(2) of the Act, he cannot usurp a non-existent power. In the orders made, the illegality committed by the Tahsildar has been set at right. By issuing a writ of certiorari by this Court in this petition challenging Annexures-E and F orders, it will be perpetuating an illegality. For that purpose, this Court cannot invoke its jurisdiction. The writ petition is dismissed.

Sd/-
JUDGE

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